

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 18-08118-CJC (ASx)

Date: March 31, 2023

Title: UNITED STATES OF AMERICA EX REL. TED SWITZER AND DIXIE SWITZER ET AL. V. ROBERT C. WOOD II ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Rolls Royce Paschal
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

PROCEEDINGS: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY CERTAIN DEFENDANTS WERE PROPERLY JOINED AND WHY DISMISSAL OR TRANSFER OF VENUE FOR CLAIMS AGAINST CERTAIN DEFENDANTS IS NOT APPROPRIATE

Relators Ted Switzer and Dixie Switzer (“Relators”) bring this *qui tam* suit on behalf of the United States of America, alleging a healthcare fraud scheme in violation of the federal False Claims Act, 31 U.S.C. §§ 3729–3733, against Defendants (1) Robert C. Wood II, (2) Access Medical, LLC (collectively with Wood, the “Non-Physician Defendants”), (3) Sean Early and Michael Maguire (the “California Physicians”), (4) the Timberline Group, LLC (collectively with California Physicians, the “California Defendants”) (5) Thomas Parfenchuck and Gregory Oetting (the “Georgia Physicians”), (6) Augusta Spinal Associates, LLC, (7) University Health Services, Inc. (collectively with Georgia Physicians and Augusta Spinal Associates, the “Georgia Defendants”), (7) Archie Perry and Thomas Dunn (the “Nevada Physicians”), (8) APSW, LLC, (9) TDSW, LLC, and (10) Kainalu, LLC. (*See* Dkt. 1 [Complaint, hereinafter “Compl.”] at 1, 11–12.) Relators also bring suit on behalf of the State of California against California Defendants, alleging that the scheme was in violation of the California False Claims Act, Cal. Gov. Code §§ 12650–12656, and the California Insurance Frauds Prevention Act, Cal. Ins. Code §§ 1871–1879.8. (*See* Compl. at 12–17.)

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Now before the Court are several motions by Defendants. Among other things, Georgia Defendants move to sever the claims against them for improper joinder under Federal Rule of Civil Procedure 21 and move either to dismiss the claims under Rule 12(b)(3) or to transfer the claims to a more convenient forum under 28 U.S.C. § 1404(a). (*See* Dkt. 70; Dkt. 75.) Nevada Physicians separately move to dismiss the claims against them under Rules 9(b) and 12(b)(6), (*see* Dkt. 72), but to date, they have not raised the same joinder or venue issues that Georgia Defendants have. Further, there appear to be no motions on behalf of Nevada Physicians’ purported companies that are also defendants to this action, namely, APSW, LLC, TDSW, LLC, and Kainalu, LLC (collectively with Nevada Physicians, the “Nevada Defendants”).

The Court hereby **ORDERS** Nevada Defendants and Relators to show cause in writing why the claims against Nevada Defendants and the related claims against Non-Physician Defendants should not be severed for improper joinder under Rule 21 or be dismissed or transferred to the U.S. District Court for the District of Nevada or another venue under Rule 12(b)(3), 28 U.S.C. § 1404(a), or 28 U.S.C. § 1406(a). Nevada Defendants shall file a single, joint response by **April 17, 2023**, Relators shall file a single, joint response by **April 24, 2023**, and Nevada Defendants shall file a single, joint reply by **May 1, 2023**.

Though Non-Physician Defendants are not obligated to address this Order, to the extent that they wish to be heard on the above issues regarding Nevada Defendants or the corresponding issues regarding Georgia Defendants, Non-Physician Defendants shall file a single, joint response by **April 17, 2023**, and a single, joint reply by **May 1, 2023**.

Defendants’ pending motions, (Dkt. 70; Dkt. 71; Dkt. 72; Dkt. 75), are taken under submission, and the hearings on the motions scheduled for April 10, 2023, are vacated and removed from the calendar.

jso

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Initials of Deputy Clerk RRP